

REMARKS

This is in response to the Office Action of November 5, 2008. With this response, claim 1 is amended and all pending claims 1-3, 5, 7-10 and 12-16 are presented for reconsideration and favorable action.

With this Amendment, claim 1 has the same limitations as independent claim 9, and should thus be patentable over Schultheiss. Further, a typographical error in claim, line 3 is corrected.

Further, the Examiner rejects the claims based on § 112. According to the Examiner, the specification does not teach how to make the analysis and how to decide which frequency to use. However, Applicant submits that this feature is sufficiently disclosed on page 6, lines 5-16 (reference made to PCT publication).

In this section, it is described how, according to one embodiment, the analyzer comprises an evaluation unit adapted to evaluate tank spectra obtained with two different frequency bands, and to decide which frequency band provides the most accurate result. In other words, it is clear that the assessment of which frequency band provides the most accurate result is a relative assessment, that does not require a previously known baseline.

The skilled person will understand how to provide an evaluation unit with hardware and/or software capable of comparing tank spectra obtained for different frequency bands, in order to assess which spectrum generates the most accurate result. Generally speaking, the spectrum with the most accentuated (sharp) echoes will provide most reliable, and hence accurate, results. For example, it is possible to compare e.g. the relative echo amplitude for each spectrum or the width of echoes at a given relative echo height (e.g. the 80% level).

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been

expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejection claims in further prosecution of this or related applications.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Consideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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